

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

PAUL SAMUEL JOHNSON,

Plaintiff,

v.

RUIZ, *et al.*,

Defendant.

Case No. 2:20-cv-00291-JAM-JDP (PC)

ORDER DENYING MOTION TO APPOINT
COUNSEL

ECF No. 42

Plaintiff is a prisoner proceeding without counsel in this civil rights action brought under 42 U.S.C. § 1983. Plaintiff moves for the appointment of counsel. ECF No. 42.

Plaintiff does not have a constitutional right to appointed counsel in this action, *see Rand v. Rowland*, 113 F.3d 1520, 1525 (9th Cir. 1997), and the court lacks the authority to require an attorney to represent plaintiff. *See Mallard v. U.S. District Court for the Southern District of Iowa*, 490 U.S. 296, 298 (1989). The court may request the voluntary assistance of counsel. *See* 28 U.S.C. § 1915(e)(1) (“The court may request an attorney to represent any person unable to afford counsel”); *Rand*, 113 F.3d at 1525. However, without a means to compensate counsel, the court will seek volunteer counsel only in exceptional circumstances. In determining whether such circumstances exist, “the district court must evaluate both the likelihood of success on the merits [and] the ability of the [plaintiff] to articulate his claims pro se in light of the complexity of the legal issues involved.” *Rand*, 113 F.3d at 1525 (internal quotation marks and citations omitted).

1 Having considered these factors, the court cannot find that exceptional circumstances
2 warrant granting plaintiff's request. Further, on July 31, 2020, the previously assigned magistrate
3 judge recommended this action be dismissed, ECF No. 19, and plaintiff has already filed
4 objections to those findings and recommendations, ECF No. 35. If the July 31, 2020 findings and
5 recommendations are adopted by the assigned district judge, plaintiff will receive no benefit from
6 the appointment of counsel.

7 Accordingly, plaintiff's motion for appointment of counsel, ECF No. 42, is denied.

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9 IT IS SO ORDERED.

10 Dated: December 7, 2020

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12 JEREMY D. PETERSON
13 UNITED STATES MAGISTRATE JUDGE
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